

Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

17 CV 6279 CJS

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. [REDACTED] JAMES MURRAY
2. [REDACTED]

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. TODD QUEEND
2. Jane and John Does
3. _____
4. _____
5. _____
6. _____

ET. AL

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: James Murray (95-A-4417)
Present Place of Confinement & Address: Southport Correctional Facility
P.O. Box # 2000
Pine City, N.Y. 14871

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: TODD QUEENO

(If applicable) Official Position of Defendant: CORRECTION OFFICER

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: WENDE CORRECTIONAL FACILITY, WENDE RD
PO BOX 1187, AIDEN, NY 14004-1187

Name of Defendant: Jane / John Does

(If applicable) Official Position of Defendant: CO's Sgt. Lt's Capt. Deputy (RANK & FILE ETC)

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: WENDE CF, CENTRAL OFFICE

Name of Defendant: "

(If applicable) Official Position of Defendant: "

(If applicable) Defendant is Sued in ☐ Individual and/or ☐ Official Capacity

Address of Defendant: " WENDE CF, CENTRAL OFFICE

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

_____ Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes _____ No _____

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit: I DON'T RECALL THEM I DISCARDED PAPERWORK BUT I WILL WRITE TO THE CLERKS \$TRY TO GET THE INFO\$

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) 5/6/16

defendant (give the name and position held of each defendant involved in this incident) TODD

QUEEN CORRECTION OFFICER AND OTHERS
WHO'S NAMES I DON'T HAVE NOW

did the following to me (briefly state what each defendant named above did): Subjected me to
a unreasonable degree of harm by not searching
prisoners for all the weapons they know or should
know are brought to the yard where they know's [A HIGH
RATE OF ASSAULTS IN PRISONS] ALSO THEY failed to run the phones as
is done in alot of facilities cause to not do so causes incidents that
result in harm, and they refused me protection to specific threats
despite fight over phone & my request prior to my being severely cut
CAUSING 57 STITCHES & PERMANENT FACIAL DISFIGUREMENT & PAIN PHYSICALLY & MENTALLY
The constitutional basis for this claim under 42 U.S.C. § 1983 is:
Also may be more I don't know and reserve right to include
Failure to Protect Failure to provide Reasonable safety.

The relief I am seeking for this claim is (briefly state the relief sought): Declaratory

relief, injunctive relief, compensatory
and punitive damages.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? nothing -
as usual (WDE - 42426 - 16 Grievance #)

Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? nothing -
as usual (WDE - 42426 - 16 Grievance #)

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) 5/6/16 and prior to and to date
defendant (give the name and position held of each defendant involved in this incident) Jane John
Doe Commissioner on down that are responsible
for safety & security for providing reasonable degree of
protect to those under the care, custody and control of
Nys. DOCCS, those that's supposed to collect & analyse
data, recommend & approve policy etc and have all
to do with safety & security

did the following to me (briefly state what each defendant named above did): failed to provide me a reasonably safe & secure environment to foreseeable risk, failed to protect me from harm they knew of and should've known of ~~willfully~~ ^{were} willfully, intelligently and knowingly as well as negligently, grossly negligently & deliberately indifferently in their policies practices customs etc. to do with hiring, training, disciplining, maintenance of facilities and its occupants, supervision, monitoring, deployment of staff & charges & safety measures
~~systemic abuses that caused me harm 47 stitches from foreseeable attack. Had no weapon detection apparatus, had no cameras, didn't use security measure didn't make sure the security measures were employed properly.~~
 The constitutional basis for this claim under 42 U.S.C. § 1983 is: failure to provide a

reasonable degree of protect Pendent/supplemental action ~~and then~~ Federal
and then state tort, too

The relief I am seeking for this claim is (briefly state the relief sought): Declaratory, injunctive, compensatory & punitive damages

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? WDE-42426-16
GRIEVANCE # (NOTHING AS USUAL)

Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? WDE-42426-16
GRIEVANCE # (NOTHING AS USUAL)

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

*** SEE ADDITIONAL SHEETS OF PAPER WITH ADDITIONAL ~~CLAIMS~~ CLAIMS ***
 If you have additional claims, use the above format and set them out on additional sheets of paper. *

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

DECLARATORY, INJUNCTIVE, COMPENSATORY AND PUNITIVE DAMAGES RELIEF.

Do you want a jury trial? Yes ☒ No ☐

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 11th 2017
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

James Murray?

Signature(s) of Plaintiff(s)

JS 44 (Rev 08 16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS <u>JAMES MURRAY</u>	DEFENDANTS <u>MAI 3 2017</u>
(b) County of Residence of First Listed Plaintiff <u>CHEMUNG</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>	County of Residence of First Listed Defendant <u>ERIE</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small>
(c) Attorneys (Firm Name, Address, and Telephone Number) <u>PRO SE</u> <u>SOUTHPORT C.F. (BOX 2000)</u> <u>PINE CITY, N.Y. 14871-2000</u> <u>JAMES MURRAY (95A4417)</u>	Attorneys (If Known) <u>ATTORNEY GENERAL</u> <u>WILL BECOME ATTORNEY</u> <u>AFTER SERVICE</u>

II. BASIS OF JURISDICTION <small>(Place an "X" in One Box Only)</small>	III. CITIZENSHIP OF PRINCIPAL PARTIES <small>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</small>												
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question <small>(U.S. Government Not a Party)</small> <input type="checkbox"/> 4 Diversity <small>(Indicate Citizenship of Parties in Item III)</small>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Citizen of This State</th> <th style="text-align: left;">Citizen of Another State</th> <th style="text-align: left;">Citizen or Subject of a Foreign Country</th> <th style="text-align: left;">Incorporated or Principal Place of Business In This State</th> <th style="text-align: left;">Incorporated and Principal Place of Business In Another State</th> <th style="text-align: left;">Foreign Nation</th> </tr> <tr> <td style="text-align: center;">PTF DEF <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	Citizen of Another State	Citizen or Subject of a Foreign Country	Incorporated or Principal Place of Business In This State	Incorporated and Principal Place of Business In Another State	Foreign Nation	PTF DEF <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	<input type="checkbox"/> 2 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 3	<input type="checkbox"/> 4 <input type="checkbox"/> 4	<input type="checkbox"/> 5 <input type="checkbox"/> 5	<input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State	Citizen of Another State	Citizen or Subject of a Foreign Country	Incorporated or Principal Place of Business In This State	Incorporated and Principal Place of Business In Another State	Foreign Nation								
PTF DEF <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	<input type="checkbox"/> 2 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 3	<input type="checkbox"/> 4 <input type="checkbox"/> 4	<input type="checkbox"/> 5 <input type="checkbox"/> 5	<input type="checkbox"/> 6 <input type="checkbox"/> 6								

IV. NATURE OF SUIT <small>(Place an "X" in One Box Only)</small>				Check here for: Nature of Suit Code Descriptions.	
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <small>(Excludes Veterans)</small> <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care - Pharmaceutical <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input checked="" type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN <small>(Place an "X" in One Box Only)</small> <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District <small>(specify)</small> <input type="checkbox"/> 6 Multidistrict Litigation - Transfer <input type="checkbox"/> 8 Multidistrict Litigation - Direct File	
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VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing <small>(Do not cite jurisdictional statutes unless diversity):</small> Brief description of cause: <u>42 U.S.C. § 1983, Civil Rights Action</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ <u>TO BE DETERMINED BY JURY</u> CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	<u>I DONT RECALL</u> <small>(See instructions):</small> JUDGE _____ DOCKET NUMBER _____
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DATE: <u>4/11/17</u>	SIGNATURE OF ATTORNEY OF RECORD: <u>James Murray "Pro Se"</u>
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FOR OFFICE USE ONLY	RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____
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